

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re: Chapter 13

David Lugo Case No. 24-35991-kyp

Debtor.

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**CREDITOR LOSS MITIGATION AFFIRMATION**

STATE OF NEW YORK )

)ss.:

COUNTY OF ERIE )

I, Ehret Van Horn Esq. , being sworn, say:

On , Rushmore Servicing advised the law firm of Gross Polowy LLC to serve a true copy of the Financial Packet and a request for the following documents:

☐ A copy of the Debtor(s) two (2) most recent federal income tax returns; [See “Other” below]

☐ A copy of the Debtor(s) last two (2) paycheck stubs, proof of social security income, pensions, or any other income received by the Debtor(s); [See “Other” below]

Or, if Debtor(s) is/are self employed:

☐ A copy of the Debtor(s)= business= two (2) most recent months= Profit and Loss Statements, setting forth a breakdown of the monthly business income and expenses for the months of; [See “Other” below]

☐ A copy of the Mortgagee=s completed Financial Worksheet; [See “Other” below]

☐ Proof of Second/Third Party Income by Affidavit of the party, including the party=s last two (2) paycheck stubs, [See “Other” below]

☒ Other (please specify):

The servicer is asking for the following information to initiate a workout review:

- Is the Borrower hardship resolved? Yes or No
- Are you currently living in the property? Yes or No
- If your account was current, would you be able to continue making your regular monthly mortgage payments? Yes or NO

If the customer qualifies for the Partial Claim, which is the first workout in the waterfall, they will not need to provide any additional financials. If they do not qualify for the Partial Claim, it will be re-reviewed by the servicer additional documents may be requested.

**Documents that need to be updated every 60 days (I.e. a form from January 1, 2013 would be current until March 1, 2013)**

☐ **RMA form** (attached):

**Please note:**

- This form now also contains the Dodd-Frank Certification
- All sections of this form must be filled out, whether they are applicable or not. If they do not apply, put a "N/A" in the field. If a certain section of the financial worksheet aspect is not applicable, similarly either put an "N/A" or "0" rather than leaving it blank. Also, ensure to indicate on page two (2) of this form in the top right corner the amount of people residing in the household. Lastly, sign and date the bottom of the form.

☐ **Financial worksheet** (attached)

☐ **The most current and consecutive bank statements (all accounts, all pages) for the past three (3) months:**

**Please note:**

- To ensure there is no confusion, clearly mark each deposit as either "payroll," "contribution," "rent," etc.
- All sources of income must be reflected in the bank statements as deposits to be "verifiable" and therefore used in the income calculations.
- If the borrower does not receive traditional paper bank statements in the mail, printouts are acceptable, but please note that the borrower's name, the account number, the banking institution's name, and the indication of what time period the statement is for must be on the form, and all pages (even if they are blank) must be provided.

☐ **The most current and consecutive proof of income for the past thirty (30) days:**

- One (1) month of the borrower(s)' most recent pay stubs.
- If the borrower(s) are self employed, then the secured creditor will require the most recent three (3) months' profit and loss statements as well as three (3) months bank statements. These profit and loss statements must state the business name and address, as well the financial information regarding income and expenses during the covered time period. These profit and loss statements must be signed and dated.

☐ **The most current utility bill reflecting the borrower(s)' name and property address:**

☐ **Contribution income from an occupant of the property who is a non-borrower** (did not sign the note/mortgage). In the situation described in the preceding sentence the following must also be provided:

- Non-Borrower Occupant and Income Certification form (attached)
- The address where the contributor resides.
- The deposits from the contributor must be reflected in the borrower(s)' bank statements to be "verifiable" and therefore able to be used in the income calculations for modification.
- The most current utility bill, cell phone bill, credit card bill/statement, etc. in the contributor's name indicating the property address.
- The most current and consecutive proof of income for the past thirty (30) days for the contributor.
- Signed and dated two most recent years' tax returns, if not filed jointly with Borrower.
- 4506T form (attached) if not filed jointly with Borrower.

☐ **Rental Income:**

- Copies of the lease agreement signed and dated by both the landlord and tenant. The lease agreement must be valid for the next six (6) months and/or have a “month to month” clause to be usable in the income calculations.
- Deposits of the rental income must be shown in the bank statements that are submitted; alternatively, copies of the last three (3) months cancelled rent checks may be provided to verify the income.

**Documents that need to be updated every 90 days - (I.e. a form from January 1, 2013 would be current until April 1, 2013).**

☐ **IRS 4506T form (attached):**

**Please note**

This form must be completed, and signed and dated. If the form comes with pre-entered information in line 5, then leave it as it is; if it is blank, leave it blank. On line 6, ensure to indicate “1040.” Make sure to check box 6a. Lastly, on line 9 enter the years of the tax returns being requested (i.e. 2010 and 2011) in mm/dd/yyyy format.

☐ **Hardship letter, signed and dated with the current date:**

**Please note**

This letter must state the reason for the borrower’s initial hardship which led to default, as well as identify any ongoing hardship(s).

☐ **Social security, disability, pension, unemployment, child support, etc.**

**Please Note**

- Deposits must be indicated either in the bank statements as deposits, or through some other form of statement from the institution or entity providing the income.
- In the case of social security, for example, an award letter is given to the recipient stating the amount to be paid and the duration of that payment. The most current award letter must be provided.
- If child support income or any other income stemming from a court decision is to be considered, then a copy of the divorce decree or court decision stating the award must be provided.

**Documents not required to be updated every 90 days**

☐ **Complete copies of the most recent two years’ tax returns, with all schedules and W2 forms;**

**Please note**

- Tax returns are often filed electronically, so please ensure to sign and date the tax returns prior to submitting them.
- If the borrower has not filed the most recent year’s tax return, then proof of filing for an extension must be supplied in its stead.

The Secured Creditor reserves its right to request further information from the Debtor if necessary.

Please be advised that the Creditor designates the following person to be its Loss Mitigation contact:

Name: Rafael Valerio

Title: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Email Address: RSH\_BK\_NonPortal@mrcooper.com

Please be advised that the Creditor designates the following person to be its attorney for Loss Mitigation on this Loan.

Name: Ehret Anne Van Horn, Esq.

Firm: Gross Polowy LLC

Phone Number: (716) 204-1700

Fax Number: (716) 204-1702

Email Address: info@grosspolowy.com

Dated: December 11, 2024

/s/ Ehret Van Horn\_\_\_\_\_

Ehret Anne Van Horn, Esq.